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From: Valentine, Julia
Sent: Thur 2/16/2017 5:59:15 PM
Subject: OPA Clips 2/16/17
MAIL_RECEIVED: Thur 2/16/2017 5:59:18 PM

Hi team,

The Office of Media Relations (part of the office of Public Affairs) combs the web for clips every day (latest is forwarded below). Our fantastic interns, Kat (Katherine) So and Kevin McGonagle send these as they happen, all day long. They are cumulative – each email includes all of the clips that were sent previously that day.

If you are looking for anything in particular, a clip or a number of clips on a certain topic, send us a quick email and we'll make sure it gets to you and the whole group.

Quotes from EPA are highlighted for easy scrolling.

We will also be sending, separately, clips about Mr. Pruitt:

- About confirmation prior to the vote.
- About the confirmation vote
- About his speech and event

Thanks and let us know if you need anything.

Julia P. Valentine

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Below: Politico Pro, The Hill, InsideEPA, TechCrunch, The Hill, Gizmodo, Bloomberg BNA (2), Politico Pro, E&E News (2), InsideEPA (2/15)

Politico Pro

<https://www.politicopro.com/energy/whiteboard/2017/02/mccain-to-miss-pruitt-confirmation-vote-083868>

McCain to miss Pruitt confirmation vote

By Austin Wright and Darius Dixon 2/16/17

Sen. [John McCain](#) says he informed Majority Leader [Mitch McConnell](#) that he will not delay his trip to the Munich Security Conference, which means he will miss a vote expected to take place on Friday to confirm Scott Pruitt as EPA administrator.

McConnell had asked senators to stay in Washington for the Friday vote, and McCain said he did not know if his travel plans would affect the vote.

"I don't know. I told them months ago that this conference in Munich is one of the most important gatherings conducted and I told them I was going months ago," McCain said.

Sen. [Lindsey Graham](#), who is also attending the security conference, said the rest of the congressional delegation was planning to delay its departure until Friday afternoon.

With McCain's absence and Sen. [Susan Collins](#)' opposition to Pruitt, the Oklahoma Attorney General's path to 50 votes is tight. But the expected support of Democrats Sens. [Joe Manchin](#) and [Heidi Heitkamp](#) should ensure that his nomination is approved.

The Hill

<http://thehill.com/policy/energy-environment/319891-dem-sens-heitkamp-manchin-to-support-trump-epa-pick>

Dems Sens. Heitkamp, Manchin to support Trump EPA pick

By Devin Henry 2/16/17, 12:09 PM

Two Senate Democrats on Thursday said they will vote for President Trump's nominee to lead the Environmental Protection Agency.

In a statement, Sen. [Heidi Heitkamp](#) (D-N.D.) said she supports Scott Pruitt's nomination to EPA administrator. A spokesman for Sen. [Joe Manchin](#) (D-W.Va.) said Manchin will also vote to confirm him.

"Once Mr. Pruitt is confirmed to lead EPA, I'll work to make sure EPA focuses on smart regulation and works with states and local communities to address issues like the unworkable Waters of the U.S. rule and the punitive final Clean Power Plan rules," Heitkamp said in a statement, noting two controversial Obama administration EPA rules.

"Though I have concerns about his commitment to a comprehensive energy strategy that includes renewables and his commitment to reduce emissions to protect our air and water, I'll work to hold Pruitt accountable and make sure North Dakota's interests are heard."

Both Heitkamp and Manchin are expected to face tough re-election fights in conservative, energy-producing states next year. Heitkamp said Thursday she will also support Trump's picks to lead the Interior and Energy Departments.

The Democrats' support for Pruitt solidifies his standing ahead of a confirmation vote expected on Friday.

Though Sen. [Susan Collins](#) (R-Maine) came out against Pruitt's nomination on Wednesday, that defection will be offset by support from Heitkamp and Manchin, and no other Republican has said they will vote against Pruitt.

The Senate kicked off floor debate on Pruitt's nomination on Thursday, with Republicans hailing him as a potential agent of change at the EPA.

"Over the past eight years the political leaders of the EPA have taken actions that have undermined the American people's faith in the agency," Sen. John Barrasso (R-Wyo.) said.

As Oklahoma's attorney general, Pruitt "worked to protect the environment in his state while also working for the benefit of the people," Barrasso said.

But Democrats say Pruitt will erode the agenda's agenda and favor fossil fuel interests over that of the environment, noting his career suing the EPA during his tenure in Oklahoma.

"Never have I been forced to consider a candidate to lead the EPA who as been so focused throughout his career on crippling the agency he now hopes to lead," Sen. Tom Carper (D-Del.) said.

InsideEPA

<https://insideepa.com/daily-news/epa-staff-takes-dim-view-planned-trump-visit-agency-headquarters>

EPA Staff Takes Dim View Of Planned Trump Visit To Agency Headquarters

By Dawn Reeves 2/16/17

President Donald Trump's planned visit to EPA headquarters to sign executive orders (EO) scaling back the agency's climate change and other work is prompting questions about whether the president and Administrator-nominee Scott Pruitt might seek to require staff to attend, further deflating staffers' low morale.

One former EPA official asks, "Can Trump order EPA staff to be in the room?" The source says that career staff have been largely paralyzed by the Trump transition and beachhead teams, which imposed a communications freeze on headquarters officials, criticized agency scientists and hobbled work across program offices.

One Trump administration source told *InsideEPA/climate* Feb. 14 that the planned visit -- which will come after Pruitt is confirmed by the Senate -- is aimed at [sending a message](#) that Pruitt is

ready to get to work on core clean air, water and waste issues, rather than climate change. The message could “suck the air out” of the room.

The Senate is expected to have enough votes to confirm Pruitt, with a final vote occurring as soon as Feb. 17. In that scenario, Trump's visit to the agency could occur the following week, the source says.

The source would not share the content or number of EOs to be signed, but they are expected to dramatically scale back the agency's climate change work and could revoke former President Barack Obama's Climate Action Plan and direct the agency to begin revoking the Clean Power Plan greenhouse gas rule and the Clean Water Act jurisdiction rule.

The former EPA official says agency staff would prefer not to attend what may be a command performance with the new administrator and the new president because neither have signaled support for the agency's mission.

Also, this source notes that the beachhead team is successfully scaring agency employees into keeping quiet by holding closed-door meetings with small numbers of staff and giving them orders -- such as to begin removing [climate-related information](#) from the agency's website.

The team is reportedly not putting many orders in writing, so they cannot be sought later under the Freedom of Information Act, the source says. Also, the meetings are intentionally small so administration officials can identify staff if information is leaked.

The source says this practice is having an extremely chilling effect on the agency's workforce, as did a transition team request in the waning days of the Obama administration for a list of names of every employee that could post to an EPA social media account.

Trump campaigned on a platform of getting rid of EPA entirely, or “leaving a little bit of it.” Pruitt has made a career of suing the agency over myriad regulations during his tenure as Oklahoma attorney general. And former EPA transition leader Myron Ebell advocates deep agency budget cuts and radical staff reductions from 15,000 to 5,000.

More than 450 former EPA employees signed a Feb. 6 letter to the Senate [objecting to Pruitt](#), including some politically appointed regional administrators along with career scientists, attorneys, analysts and others.

Also, about 30 Region 5 staffers joined a Feb. 6 anti-Pruitt protest during their lunch hour, according to a [Chicago Tonight report](#). EPA protestors included chemist Wayne Whipple, who said, “Please, keep us doing what we're doing. Let us do what we do.”

EPA spokesman Doug Ericksen sought to downplay the Chicago protest, telling [Reuters](#) that “employees have a right to take action on their private time.” But top EPA career officials have also [cautioned the agency](#) to remember they must comply with Hatch Act ethical requirements that largely prohibit them from engaging in political activity as part of their work, according to a Feb. 3 email to all staff obtained by *Inside EPA*.

The *Reuters* article notes that Trump has also vowed to cut oil, gas and coal rules, though he says he can do so without compromising air and water quality.

Intentional Provocation

But EPA employees are worried that the bedrock air and water protections are under dire threat, and that Trump and Pruitt will impose dramatic budget and staff cuts.

The administration is said to be considering [shuttering the agency's independent enforcement office](#) and shuttling enforcement duties into the program offices -- a move that has already [faced some pushback](#).

Some EPA staff are considering how to “slow-walk” Trump's orders, though one agency lawyer says that most employees will comply with them, short of catastrophic actions. “Unless there's an abject abandoning of EPA's role in the world, we'll do what we're told to do,” Region 5 attorney

Nicole Cantello told the [New York Times Feb. 11](#).

But a Trump visit to EPA headquarters to target agency authority and limit the scope of its work would be viewed as an intentional provocation by many agency staffers.

The former EPA official compares it to Trump's visit to CIA headquarters Jan. 21, noting news reports that Trump brought supporters to the meeting to sit alongside agency employees to cheer during his speech.

However, unlike the planned EPA visit, the CIA event was seen as somewhat of an olive branch, after Trump harshly criticized the intelligence community for investigating potential Russian hacking in the election and his potential ties to the country.

“There is nobody that feels stronger about the intelligence community and the CIA than Donald Trump,” Trump said that day, according to the [Washington Post](#). That report also noted the event was the first in what aides said would be a series of visits by Trump to federal agencies. Much of his remarks complained about media coverage of the size of his inaugural crowd the prior day.

The CIA visit was on a Saturday and staff was not required to attend. Many did not, though [CBS News reported](#) that Trump brought his own cheering crowd to the speech.

Government officials pushed back against the perception that the CIA workforce was cheering for Trump, and said the first three rows were made up of campaign supporters, though that charge was later denied by White House press secretary Sean Spicer, who said there were no “Trump or White House folks” in the first rows. But then Spicer's account was called inaccurate by a source who helped plan the CIA visit, according to *CBS*.

A 'Real Nice Touch'

In response to a question from *Inside EPA* on whether employees could be required to attend a

Trump meeting, an agency spokesperson says, “While EPA would welcome a visit by President Trump, there is not a visit scheduled at this time. The President’s schedule is managed by the White House.”

The former EPA official argues that federal workers have integrity and are required to take an oath to uphold the Constitution, and that EPA career staff will be unlikely to voluntarily attend or applaud Trump or Pruitt.

One industry lawyer says sarcastically that the planned visit is a “real nice touch. Staff will love this.”

Sierra Club issued a statement in response to the planned EOs, saying, “Undermining the international leadership the U.S. has shown on climate action would be an enormous mistake of historic consequence. If Trump does follow through it would mean he is declaring open season on our air, water and climate while further destabilizing our role in the world.”

Meanwhile, Acting EPA Administrator Catherine McCabe [flagged “challenges”](#) ahead of Pruitt's expected confirmation in a Feb. 13 video message to staff, where she discussed Trump's hiring freeze and a separate EO imposing a government-wide requirement that two regulations be withdrawn for every new one that is issued.

“The freeze on hiring is already creating some challenges to our ability to get the agency's work done,” McCabe said in the message, adding that the freeze has raised many questions that she is still trying to answer.

The former EPA official adds that little work appears to be getting done or at least is not getting communicated to the public.

EPA headquarters has not posted a press release to its website since Jan. 19, which is also the same date that the agency's Facebook page and numerous Twitter feeds were last updated. The agency's 10 regions have been sending press releases, mostly regarding relatively minor matters.

However, the agency did issue [its draft annual greenhouse gas inventory](#) Feb. 14, with plans to issue a final version by April. That report is required to be issued by statute. A notice about the report's availability was published in the *Federal Register*, but EPA did not publish a press release about it.

TechCrunch

<https://techcrunch.com/2017/02/16/the-epa-posted-a-backup-of-its-website-dated-just-before-inauguration-day/?ncid=rss>

The EPA posted a backup of its website dated just before inauguration day

By Devin Coldewey 2/16/17

In what could either be a paperwork-saving decision or a thinly veiled gesture of defiance, the Environmental Protection Agency has put a mirror of its own website online — a “snapshot” from January 19, the day before Trump was sworn in as president.

The backup appeared yesterday at a subdomain of EPA.gov, and since then has appeared under the “Frequently requested information” heading in the live webpage’s FOIA section. It appears that enough FOIA requests were submitted for various pieces of the website, or the entire site itself, that the agency decided to just put up a full mirror.

A banner at the top of the page recalls the one found on the archived Obama WhiteHouse.gov:

This website is historical material reflecting the EPA website as it existed on January 19, 2017. This website [i.e. the snapshot] is no longer updated and links to external websites and some internal pages may not work.

It’s still technically an EPA website, and so could be removed through executive action, but the fact that it was much-requested via FOIA should make it pretty robust against takedown.

That the mirror is dated January 19, though, can hardly be a coincidence. The Trump administration is openly hostile to the EPA, and its ascendance may very well mark the agency's final days — at least as the agency it's been for the last few decades. Early indicators, such as clamping down on any mention of climate change, are not reassuring.

Scott Pruitt, the man nominated to lead the agency, has sued it a dozen times (some suits are still open) and would almost certainly put up no resistance to its reduction or elimination. His confirmation vote is fast approaching, but at least one Republican Senator (Maine's Susan Collins) has announced her intention of voting against him.

I've contacted the EPA for more details on the circumstances surrounding this snapshot.

The Hill

<http://thehill.com/policy/energy-environment/319852-senate-advances-trumps-epa-pick>

Senate advances Trump's EPA pick

By Timothy Cama 2/16/17

The Senate is moving forward with Oklahoma Attorney General Scott Pruitt's nomination to lead the Environmental Protection Agency (EPA).

The chamber voted 54-46 to advance Pruitt's nomination, clearing the simple majority needed. Sens. Heidi Heitkamp (D-N.D.) and Joe Manchin (D-W.Va.) were the only Democrats to vote in favor of cloture on Pruitt's nomination, joining all 52 Republicans.

Sen. Susan Collins (R-Maine) on Wednesday became the only Republican senator to announce that she would oppose Pruitt, though she voted in favor of cloture for his nomination on Thursday.

Collins — who has voted against other Trump Cabinet nominees — told a local Maine radio station that she had concerns about how Pruitt would be able to run an agency he had spent much of his time as Oklahoma's top lawyer opposing and suing.

"His actions leave me with considerable doubts about whether his vision for the EPA is consistent with the agency's critical mission to protect health and the environment," she said.

Pruitt's vote went forward despite a failed 11th hour effort by Democrats to delay it because of a pending court case involving email records.

Democrats on the Environment and Public Works Committee, led by Sen. Tom Carper (D-Del.), said that emails Pruitt's office is likely to release publicly soon may be important in considering his nomination.

"These records are needed for the Senate to evaluate Mr. Pruitt's suitability to serve in the position for which he has been nominated," the Democrats wrote in a letter to Majority Leader Mitch McConnell (R-Ky).

But McConnell praised Pruitt on Thursday as a "welcome change" from the Obama administration, which he argued negatively impacted coal families in his home state of Kentucky.

"Pruitt thinks it's time for the EPA to get back clean air and clean water business," he said. "And to do so with an appreciation for the complexity of our modern world, with awareness of the broader economy, with compassion toward those impacted."

Thursday's vote sets up a final vote as early as Friday.

McConnell warned senators Wednesday that they should expect to stay in session through Friday

afternoon, but a group of roughly a dozen senators are expected to leave for a security conference in Germany.

Gizmodo

<http://gizmodo.com/the-epa-just-posted-a-mirror-website-of-the-one-trump-p-1792430343>

The EPA Just Posted a Mirror Website of the One Trump Plans to Censor

By Matt Novak 2/16/17

As the Trump regime has taken power, a lot of valuable information from government agencies has been erased. Useful info is being scrubbed from the USDA, the Department of Education, and there are clear indications that the EPA is next. But we now have a snapshot of what the EPA website looked like the day before Trump took office. And it's all thanks to FOIA requestors.

The Environmental Protection Agency (EPA) has come under unprecedented threat in recent weeks. Republicans have gone so far as to introduce a bill that would eliminate the EPA entirely. But people are pushing back. And after individual efforts to backup the website, along with plenty of Freedom of Information Act (FOIA) requests, the EPA just posted a snapshot of the site as it existed on January 19, 2017, the day before Trump was sworn in.

It's unclear how many FOIA requests were filed for the site, but we know that it was at least three. Under federal law, agencies are required to publicly post any documents that get three or more requests. "Documents" is a catchall term under FOIA that can include anything from videos to websites. If just one person makes a request, those documents are only sent to the person who asked for it and it's up to that party to make it public.

"The genius of this approach is that, because they were required by federal law to post the mirror site (because it's a frequently requested record), it's harder now to force it down," writer and anthologist Russ Kick told Gizmodo over email. Kick is the founder of The Memory Hole, a one-man operation that posts government documents.

Kick wasn't one of the requestors in this case, but he noticed it this morning after the EPA posted the mirror site yesterday.

"I must admit that I didn't file a FOIA request for the site. That tactic hadn't occurred to me, but I love it," Kick said.

The EPA's mirror website makes it clear that it's just a snapshot, and that links could very well die at some point. But it's better than nothing.

"This is not the current EPA website," the site reads. "To navigate to the current EPA website, please go to www.epa.gov. This website is historical material reflecting the EPA website as it existed on January 19, 2017. This website is no longer updated and links to external websites and some internal pages may not work."

Unfortunately, there are elements of the website that aren't backed up because of size constraints. Those elements can still be found at the links below:

AirNow images: available at <https://cfpub.epa.gov/airnow/index.cfm?action=airnow.main>

Radiation Network graphs: available at <https://www.epa.gov/enviro/radnet-overview>

Historic Air Technology Transfer Network information: available at <https://www.epa.gov/technical-air-pollution-resources>

EPA's Searchable News Releases: available at <https://www.epa.gov/newsreleases/search>

Coincidentally, I filed my own FOIA request back in September to see if the EPA has purchased any new domain names from September 2015 to September 2016. The agency told me that it hadn't, but I guess they've purchased at least one since then: <https://19january2017snapshot.epa.gov/>. (Update: As has been pointed out to me, it's just a subdomain of EPA. I didn't look closely enough and am an idiot.)

I guess it's time for everyone to submit FOIA requests for every federal agency's website if we want to save data before Trump can get his cheeto-tinted hands all over them.

Bloomberg BNA

http://esweb.bna.com/eslw/1236/split_display.adp?fedfid=105705706&vname=ccrnotallissues&wsn=49506760

EPA Girds for Pruitt Arrival as Democrats Continue to Fight

By Brian Dabbs 2/16/17

Scott Pruitt may take the reins of the Environmental Protection Agency Feb. 17, the agency's acting administrator Catherine McCabe told colleagues in a video posted publicly.

That projection aligns with Senate Republicans' repeated commitments to confirm the controversial nominee by the end of this week before departing for a roughly 10-day recess.

Still, the precise timing of a confirmation vote remains murky, and Democrats continue to push for last-minute disclosures of the Oklahoma attorney general's correspondence with fossil fuel companies. Those disclosures would allow lawmakers to fully evaluate the nominee, the Democrats indicated in a Feb. 15 letter to an Oklahoma district court judge.

The judge, Aletia Haynes Timmons, will convene an emergency hearing Feb. 16 to assess a suit filed against long-delayed release of attorney general's office e-mails with Murray Energy Corp. and Devon Energy Corp., among other companies Ctr. for Media and Democracy v. Pruitt, Okla. Dist. Ct., CV 2017-223, 2/7/17.

Democrats Aim to Join Suit

The Center for Media and Democracy and the local chapter of the American Civil Liberties

Union filed the suit, citing a more than two-year delay of the release of the e-mails. In recent days, the attorney general's office provided more than 400 of those e-mails, but the plaintiffs say hundreds if not thousands more should be disclosed.

Senate Environment and Public Works Democrats, led by ranking member Tom Carper (D-Del.), urged Timmons to force full disclosure of the e-mails and asked to formally participate in the case as amici advisers.

“Mr. Pruitt has not been forthcoming with information many of us believe to be necessary to evaluating his nomination fully,” said the Democrats before providing a range of information they allege shows improper ties between Pruitt and the fossil fuel industry. “We are providing this information to the court today because we have concluded plaintiff's pending Open Records Act requests may be the only means by which the Senate and general public can obtain in a timely manner critical information about Mr. Pruitt's ability to lead the EPA.”

Committee Democrats boycotted two nomination votes on Pruitt in early February, but Republicans suspended committee rules and advanced the nomination to the Senate floor. Following possible confirmation Feb. 16 of Rep. Mick Mulvaney (R-S.C.) as Office of Management and Budget chief, Senate Republicans have vowed to move then to Pruitt's confirmation.

McCabe Concerns

Meanwhile, McCabe told agency employees to prepare for a new wave of EPA personnel.

“We expect to see Mr. Pruitt here at EPA as early as this Friday. You will also see new political appointees arriving at EPA Friday or in the coming weeks,” she said.

The tumultuous presidential transition, however, is taking its toll on the agency, McCabe added. “The freeze on hiring is already creating some challenges to our ability to get the agency's work done,” she said. “We also recognize that the freeze on regulations raised many questions.”

The Trump administration is tentatively scheduled to lift the regulatory freeze in March, while the hiring freeze may wrap up the following month. Former and current EPA officials fear the hiring freeze could persist beyond that date. Critical functions, such as scientific research and grant administration, would suffer as a result, those officials have told Bloomberg BNA.

McCabe didn't specify the particular areas in which the EPA is currently falling short.

Bloomberg BNA

http://esweb.bna.com/eslw/1236/split_display.adp?fedfid=105705697&vname=ccrnotallissues&wsn=49506710

Carmakers' Plea for Fuel Economy Review Sets Stage for Showdown

By David Welch, Ryan Beene, and John Lippert 2/16/17

Automakers enjoying lucrative sales of trucks and sport utility vehicles are hoping President Donald Trump makes good on his vows to deregulate. Environmental groups are saying fuel efficiency standards won't be watered down without a legal challenge.

"We'll see him in court," Dan Becker, director of the Safe Climate Campaign, said of the group's planned response if the rules are revisited. "There are a lot of reasons to keep the standards in place and there will be a fight."

Eighteen auto industry executives sent a letter to Trump on Feb. 10, asking him to reinstate an Environmental Protection Agency review of fuel economy regulations through 2025 that they say was unfairly cut short during the final days of the Obama administration. That letter could be the opening act in a potential drawn-out battle in Washington and in U.S. courts as environmental groups consider suing to stall or derail any effort to lower the targets.

"The primary issue here is we do not see any kind of technical basis for weakening the standards," said Roland Hwang, director of the energy and transportation program at the Natural Resources Defense Council. "We're looking at our options," he said, declining to say definitively

whether the environmental advocacy group would file litigation.

Carmaker Action

The issue auto executives raised in their letter was the review process for the nation's fuel efficiency standards. The companies and then-President Barack Obama struck a deal in 2011 to double average fuel economy of vehicles to 54.5 miles per gallon by 2025, with the caveat that a mid-term review would determine whether the standards for the final years of the program were feasible.

Automakers say falling gasoline prices have squelched demand for the most fuel-efficient vehicles, making achieving the standards more difficult. Just a week before Trump took office, the EPA said it had concluded its review more than a year ahead of schedule and the rules didn't need to be changed.

Oklahoma Attorney General Scott Pruitt, Trump's nominee to lead the EPA, told a Senate panel in January he planned to review the EPA's final determination that the 2025 auto rules should remain intact.

If the EPA revisits the mid-term review, it won't necessarily come to a different conclusion than the one reached in Obama's final days in office. That decision was the culmination of a rules evaluation that began last summer with the publication of a more than 1,200-page [Technical Assessment Report](#) that examined costs, technology effectiveness and other aspects of the standards.

Thorough Process

Hwang called the review “one of the most thorough decision-making processes I've seen by an agency.” The NRDC views automakers’ request to re-open the review as a move to “politically meddle with what should be a science-based decision.”

“I don't know what information they could bring to the table that hasn't been brought to the table already,” he said.

Trump's push to ease regulatory burdens may create a window of opportunity for carmakers. The letter, signed by chief executives including Mary Barra of General Motors Co., Mark Fields of Ford Motor Co. and Sergio Marchionne of Fiat Chrysler Automobiles NV, said that “ignoring consumer preferences and market realities will drive up costs for buyers and threaten future production levels.”

Automakers have only asked for the mid-term review to be reinstated. It's possible that Trump's EPA could seek major changes, such as insist on weaker federal rules so that carmakers have more cash to invest in the zero-emission cars they're required to sell in California.

What's Next

Enacting new rules altogether would be a lengthy process. If Trump does initiate a new round of rule-making on the EPA's 2022-2025 greenhouse gas standards, he's likely to do so as a joint exercise with the National Highway Traffic Safety Administration, which will then be writing fuel economy standards for those same years, said Jeff Holmstead, a former assistant administrator at the EPA and now a partner at Bracewell LLP in Washington.

“I don't think they'd completely eviscerate those regulations,” Holmstead said. “But there are probably ways to make them more flexible and reduce the cost.”

A formal rule-making process, complete with public notices and comment periods, would probably take at least a year. To change the rules, Pruitt would also need to provide a formal explanation on why he's scrapping Obama's so-called final determination.

“While the auto industry might welcome lower fuel efficiency standards, environmental groups and consumer advocates almost certainly would sue,” said David Uhlmann, director of the University of Michigan's Environmental Law and Policy Program. “The reviewing court is not

likely to view favorably the fact that a new administration tried to do a 180-degree turn from the previous administration” and will “want to be assured there's a rational basis for the change.”

Politico Pro

<https://www.politicopro.com/tipsheets/morning-energy/2017/02/debate-begins-on-pruitt-nomination-today-021417>

Debate begins on Pruitt nomination today

By Anthony Adragna 2/16/17, 5:45AM

DO IT, PRUITT! The Senate is set to advance Scott Pruitt's nomination to run EPA this morning, but Democrats say they plan to delay a final vote as long as they can. Senate Majority Leader [Mitch McConnell](#) has asked everyone to stick around for a Friday afternoon confirmation vote — potentially complicating the travel plans for several senators who had been planning to leave tonight for a codel to the Munich Security Conference. Pruitt will ultimately be confirmed, but not before Democrats highlight their strenuous objections to his record. “I think we’ll use our 30 hours” of debate time, Sen. [Ben Cardin](#) told ME. “I don’t think we expect at this particular moment the outcome to be in doubt. I don’t think it is in doubt. But I think we’ll want to articulate our concerns. It’s been effective in at least putting the nominee on notice and energizing the private sector to hold the nominee accountable to our environmental objectives.”

What about his emails? An Oklahoma state judge will hear a lawsuit today saying Pruitt has delayed releasing or withheld emails regarding his dealings as state attorney general with fossil fuel and conservative groups. Watchdog group Center for Media and Democracy argues Pruitt’s office had yet to fully respond to a half-dozen requests dating as far back as January 2015. His office released 411 emails on Friday, but CMD said that was insufficient. The group questioned how Pruitt’s office narrowed those emails down from 3,000 it previously said it was reviewing, complained Pruitt’s office did not provide any emails from the past two years and argued its request should have turned up emails previously reported in The New York Times. The hearing, which is not webcast, is before Judge Aletia Haynes Timmons of the District Court in Oklahoma County at 3 p.m. local time. That will be a few hours after the Senate advances his nomination — a cloture vote on Pruitt is scheduled immediately following the 10:30 a.m. confirmation vote for Rep. [Mick Mulvaney](#) to run OMB.

How much do Dems want them before he’s confirmed? Enough to send a [letter](#) Wednesday to Timmons urging her to order the emails released. “Without court intervention, we fear the

Attorney General's office will continue to use the Open Records Act review process to shelter Mr. Pruitt from scrutiny, and not provide access to information the Senate and the public needs," wrote six Environment and Public Works Committee Democrats. They add getting the emails would still be useful for oversight, even if they are released after Pruitt is confirmed. Five EPW Democrats will call on McConnell to delay Pruitt's vote until the conclusion of the hearing during a 12:00 p.m. press conference today.

Republican defection: At least one Republican senator, [Susan Collins](#) of Maine, won't support Pruitt's nomination, although that is unlikely to keep him from getting confirmed. "I have significant concerns that Mr. Pruitt has actively opposed and sued EPA on numerous issues that are of great importance to the state of Maine, including mercury controls for coal-fired power plants and efforts to reduce cross-state air pollution and greenhouse gas emissions," she said in a [statement](#). "His actions leave me with considerable doubts about whether his vision for the EPA is consistent with the Agency's critical mission to protect human health and the environment."

E&E News

<http://www.eenews.net/climatewire/stories/1060050167>

The countdown is on. Pruitt to make a 'negative' entrance

By Emily Holden, Niina Heikkinen, and Kavya Balaraman 2/16/17

Scott Pruitt could be on the ground at U.S. EPA as early as tomorrow, with the Senate set to confirm his nomination as the agency's administrator tomorrow afternoon.

The Republican Oklahoma attorney general, who has challenged numerous EPA regulations in court, is expected to work quickly toward reversing major rules established by the Obama administration. Finalizing those rollbacks could take time.

Once Pruitt is in place, President Trump could take a number of symbolic steps against his predecessor's signature climate achievements. He could issue executive orders declaring that climate standards for power plants are illegal or announce his intent to exit the international agreement to curb greenhouse gas emissions.

Before that can happen, Pruitt and other political appointees will have to be sworn in and begin the delicate process of persuading scientists and other civil servants to share a sharply altered outlook for the agency under Trump.

That could start this week, acting Administrator Catherine McCabe told employees in a video message Tuesday. The first actions by the incoming political class could set the tone at EPA, where staffers are already nervous about potential budget and staffing cuts.

"It's not a great situation right now," said Christine Todd Whitman, who was EPA administrator under George W. Bush. "Those who are eligible for retirement are certainly looking at that as an option. There's no fun working in a negative environment."

Whitman said she worries that the American public won't understand what is happening at EPA until the next major disaster.

"There's so much coming out that needs to be sorted out with the administration right now," she said. "EPA's a little bit a victim of its own success, because people just expect to have clean air and clean water."

Nicole Cantello, an EPA lawyer based in Chicago and a union steward with American Federation of Government Employees Local 704, said last week that the "bad news is coming fast and furious." That's why EPA staffers in Region 5 recently protested publicly.

Looming budget cuts are a widespread worry. Cantello said that severe defunding would have prevented EPA from responding to the drinking water contamination crisis in Flint, Mich., and oil spills in the Gulf of Mexico. EPA's case against Volkswagen AG for cheating on emissions tests "would never have been known about," she said.

Cantello works on water quality in the Great Lakes region, a multistate issue that must be handled by the federal government. She worries that those efforts will suffer with changes at EPA, and she said her co-workers are concerned that the agency's mission could be curtailed or

"shackled completely."

Roller-coaster tweets

Staff members at EPA headquarters expressed a mix of emotions as they left their Washington, D.C., office yesterday evening, in the final hours before their new boss steps into the building.

"It's copacetic; nothing really much has changed, at least on my end," said one man who said he works at EPA but declined to give his name or department.

Other staff members said work at the agency has been proceeding as normal, although there is some doubtfulness about the future of certain projects. One EPA employee in the Office of Atmospheric Programs who gave only a first name, Robert, said people are concerned about potential budget cuts for contractors and travel.

Everyone seems to be anticipating what Pruitt is likely to say at his first all-hands meeting. And many are watching Trump's tweets, which have the power to lift, and sink, people's moods.

"Now there's talk of about a 50 percent cut in extramural resources, so there is planning for that, all the way from 10 to 50 percent [cuts], so people are pretty worried," Robert said. "It's definitely mixed morale, varied day by day based on the latest spouting off from the White House."

There is also talk of staff cuts and rumors that employees would have to take two weeks of unpaid leave this year, he said.

"There are a lot of even more concerned people who are in the climate change group; I mean, obviously, they are more in the crosshairs," Robert said.

Whitman said one indicator of how Pruitt will run the agency is how he treats science.

"From what I've heard so far, those who have been parachuted in to do the prep work for Scott Pruitt are asking questions that indicate a great skepticism for the quality of the science," Whitman said.

Doug Ericksen, the temporary head of EPA communications, said so far, there are no specific plans to change staffing levels, and he downplayed the impact of the recent hiring freeze, which prevents the agency from replacing those who are leaving.

"That would be up to the administration, the White House and the Congress in terms of overall funding to all the agencies," Ericksen said.

"I think we're just going to continue down the pathway of a smooth transition with a new administrator," he said. "He's going to be meeting with the career professionals here at the agency and working on putting his staff around him, kind of the usual stuff you would expect."

Last week, Ericksen acknowledged that the administration wanted to cut back on travel but declined to specify how much EPA might reduce those budgets.

Lax enforcement coming?

Former EPA employees note that major changes may take a while to find traction. But there are bound to be some staffers who feel alienated by those efforts and leave.

Bruce Buckheit, who enforced environmental laws at the Justice Department and then was air quality director at EPA, was at the agency during the transition from the Clinton administration to the George W. Bush administration.

"They took until May or June to really start changing things," Buckheit said. "The first couple months, we were all kind of wondering what would happen, but it didn't happen overnight."

Buckheit worked under Whitman, who he said supported EPA's core mission, but he was forced to work with assistant administrators who did not. As things changed, Buckheit said, he stayed for a year because "Whitman said 'Hang in there; we'll get this right.'"

U.S. EPA administrator nominee Pruitt could see his Senate confirmation as early as tomorrow. Photo courtesy of C-SPAN.

As acting administrator, McCabe seems to be trying to reassure staff members, thanking them in Tuesday's video for their "continuing patience."

"We do recognize the transition has brought some challenges," she said, acknowledging that the hiring freeze and the halt on new regulations are causing some difficulties.

Congress will likely move to reduce EPA's budget, although Buckheit noted that might be hard because most of EPA's funds are "stovepiped" in grants to localities.

"Those people are going to want to keep their money," he said.

Sources have suggested that new EPA leaders might also limit enforcement work (E&E Daily, Feb. 9).

Sara Schneeberg, who worked in the general counsel's air office until 2015, started out in the agency's enforcement unit under the Reagan administration. The controversial EPA head at the time, Anne Gorsuch Burford, slowed enforcement action.

"In the general counsel's office, the lawsuits are running and the lawsuits are brought against the agency and you have to defend them," Schneeberg said. "But in the enforcement office, that's EPA's initiative. You go out and you sue people. But we were told you don't go out and sue people."

Schneeberg, who worked at EPA through many transitions, said this one "seems definitely the worst."

Pruitt worries one Republican

The Senate vote tomorrow will mark the end of more than two months of opposition campaigns characterizing Pruitt as a fossil fuel lackey.

Environmental advocates, joined by Democratic senators and former agency officials, rallied yesterday evening in front of the Capitol. They carried signs saying "Pruitt the Polluter" and chanted "No hate, no fear; your climate denial's not welcome here."

Sen. Tom Carper (D-Del.) criticized Pruitt's record and suggested that his nomination is the first step toward shuttering EPA, a Trump campaign promise. Carper urged Senate leaders to delay Pruitt's confirmation vote until he releases his email correspondence with oil and gas industry interests.

"It's beyond me to understand why [Republicans] would not wait a week until we had full information," he said on the sidelines of the event. "Maybe they're fearful of the story they will tell," he added, referring to the emails.

Carper and Sen. Sheldon Whitehouse (D-R.I.) said Democrats would use all their floor time to oppose Pruitt's nomination.

"We are going to be extremely active on the floor and burn as much time as we possibly can," Whitehouse said. He added that he hopes Republicans will pay in the 2018 elections for hamstringing EPA.

"Our Republican friends are walking around looking at the ceiling tiles, pretending that they don't really see what's going on — because there is so much clout in this building from the fossil fuel industry," he said, pointing at the Capitol.

Senate Majority Leader Mitch McConnell (R-Ky.) said on the floor last night that a vote to proceed to Pruitt's confirmation will be held at 10:30 a.m. today. By tomorrow afternoon, the Senate could confirm Pruitt. He could be at his desk in EPA headquarters before sunset.

Pruitt has enough votes to be confirmed even if all Democrats oppose him. Only one Republican, Sen. Susan Collins of Maine, has said she will vote against him.

Collins, in an interview with Maine Public Radio, called Pruitt "an accomplished attorney with considerable knowledge about environmental laws," but she said she has concerns about how actively he has opposed and sued EPA.

E&E News

<http://www.eenews.net/eedaily/stories/1060050159>

Senate GOP maneuvers to confirm Pruitt by tomorrow

By Geroge Cahlink 2/16/17

Senate Republicans are insisting U.S. EPA nominee Scott Pruitt will be confirmed by the end of this week, despite near-solid Democratic resistance and at least one GOP opponent.

Senate Environment and Public Works Chairman John Barrasso (R-Wyo.) said Pruitt would be

confirmed by no later than tomorrow afternoon even if Democrats continue to force floor delays.

He said the vote could come earlier if members of the minority opt not to use all 30 hours of their allowed floor time to fight Pruitt.

Senate Majority Leader Mitch McConnell (R-Ky.) said last night: "All members should plan to stay here until complete consideration of the Pruitt nomination."

EPW Committee ranking member Tom Carper (D-Del.) promised Democrats would use all of the time to oppose the Oklahoma attorney general, whom they believe would push for a massive regulatory rollback at EPA. If Democrats stick with their plans, the Senate will be in for another overnight session tonight.

Carper suggested waiting until after a week to allow a federal court to possibly release emails related to his tenure as attorney general.

"Why wouldn't we wait a week to find out what story those emails told?" Carper asked yesterday evening. "Maybe they're fearful of a story they would tell."

Collins to oppose Pruitt

Republican Sen. Susan Collins of Maine, one of the Senate's leading moderates, broke with her party yesterday and announced she would oppose Pruitt.

Collins told Maine Public Radio that Pruitt is a competent attorney and that she could support him for another post, but not EPA.

"Pruitt has actively opposed and sued the EPA on numerous issues that are of great importance

to the state of Maine, including mercury controls for coal-fired power plants and efforts to reduce cross-state air pollution and greenhouse gas emissions," Collins said.

"His actions leave me with considerable doubts about whether his vision for the EPA is consistent with the agency's critical mission to protect human health and the environment," she said.

Collins, whose move was largely expected, is the first and may be the only member of her party to break ranks on Pruitt.

With the GOP holding a two-seat advantage in the Senate and West Virginia Democrat Joe Manchin speaking positively about Pruitt, Collins' opposition won't derail the pick.

The Natural Resources Council of Maine praised Collins and the state's independent Sen. Angus King, who caucuses with Democrats, for protecting the state's natural resources by opposing Pruitt.

"We are counting on them to continue defending the health of Maine people, our nature-based economy, and safeguards for the clean air and clean water that define our state," said Lisa Pohlmann, the group's executive director.

FreedomWorks, the pro-fossil fuel group, mocked Collins' vote by sending out a sarcastic press release, which it called a template for when the moderate lawmaker opposes a conservative choice.

"The template reads, 'We're shocked — absolutely shocked — that Sen. Collins would oppose a conservative [insert policy or nominee]. It's a shame that Sen. Collins is once again aligning with herself far-left Democrats and special interests like [insert crazy liberal group(s)] to block a crucial [nominee/policy who/that] would accomplish conservatives' dream of [action/result]," the FreedomWorks statement said.

Mulvaney

Debate on Pruitt will begin once the Senate approves Rep. Mick Mulvaney (R-S.C.) as director of the Office of Management and Budget. Votes are set for this morning.

In that post, the four-term lawmaker will oversee the crafting of President Trump's annual spending plans and coordinate rules across government.

Mulvaney, a fiscal hardliner who supported the last government shutdown and has raised doubts about human links to climate change, has drawn solid opposition from Democrats and concerns from some in the GOP, particularly over his willingness to call for cutting Pentagon spending.

One of those critics, Senate Appropriations Chairman Thad Cochran (R-Miss.), said yesterday he would support the nomination.

Senate Armed Services Chairman John McCain (R-Ariz.), who challenged Mulvaney over spending cuts at his confirmation hearing, said he would vote against him.

Perry, Zinke

Congressional aides won't rule out voting on other nominees before Congress adjourns for a weeklong Presidents Day recess.

Less controversial picks, such as Energy secretary nominee Rick Perry, Interior secretary nominee Ryan Zinke and Commerce secretary nominee Wilbur Ross, could be confirmed quickly if the parties can come to a deal.

Perry's chances for a speedy approval might have dimmed a bit yesterday with the League of Conservation Voters coming out strongly against his nomination.

"Perry's record of putting fossil fuel industry interests ahead of public health and environmental protections disqualifies him for the critical position of Secretary of Energy," LCV said, promising to score lawmakers on their vote.

Another pending nominee, Agriculture secretary pick Sonny Perdue, awaits a date for his confirmation hearing, which is seen as likely by the end of the month.

InsideEPA

<https://insideepaclimate.com/daily-news/first-climate-case-under-trump-dc-circuit-hear-suit-over-hfc-rule>

In First Climate Case Under Trump, D.C. Circuit To Hear Suit Over HFC Rule

By Abby Smith 2/15/17

Upcoming appellate court oral arguments in litigation challenging an EPA rule curbing hydrofluorocarbons (HFCs) could offer a crucial indication of where the Trump administration stands on regulating the potent greenhouse gases, as well as potential insight into how it could approach other key climate and environmental suits.

The U.S. Court of Appeals for the District of Columbia Circuit has scheduled Feb. 17 arguments in *Mexichem Fluor, Inc., v. EPA*. The suit challenges EPA's July 2015 rule removing several high global warming potential (GWP) HFCs from a list of acceptable chemicals under its Significant New Alternatives Policy (SNAP) program.

The rule is the first of several such measures to limit production and use of the refrigerants due to their climate change impacts. The Obama administration promulgated another SNAP rule in October 2016 delisting a second round of high-GWP HFCs.

The chemical companies that brought the lawsuit, Mexichem Fluor and Arkema, Inc., argue that EPA lacks Clean Air Act authority to regulate HFCs under the SNAP program, which was originally developed to limit ozone-depleting chemicals. Under that program, HFCs were approved as acceptable replacements for other refrigerants that caused significantly more damage to the ozone layer.

The companies also charge that, even if EPA does have SNAP authority to regulate HFCs, its rule was “arbitrary and capricious” because the agency failed to consider factors other than GWP when delisting the chemicals.

The upcoming arguments mark the first time the Trump Department of Justice (DOJ) will be charged with defending an Obama-era climate rule in court, and also the first arguments in an environmental lawsuit since Attorney General Jeff Sessions was confirmed.

In the first EPA suit to be argued under the Trump administration, DOJ on Feb. 10 defended an Obama EPA declaration that it has satisfied an air law requirement to regulate 90 percent of seven air toxics. But that defense was expected because the finding helps EPA avoid issuing new air toxics rules.

In the HFC litigation, it is unclear whether the new administration, which is largely hostile to climate policy, will switch positions during the arguments or potentially seek to settle the case.

The suit presents an interesting dynamic because industry is split. While Mexichem and Arkema are seeking to scrap agency's underlying authority over HFCs, large chemical companies Honeywell and Chemours are defending the agency and rebuking the other chemical firms' view of the air act as too restrictive.

Challengers “resort to tortured constructions of the law” to fight the regulation, primarily because they did not have the foresight to develop new chemicals in preparation for compliance, Honeywell and Chemours said in a June 10 brief supporting the rule.

One fact that could affect the Trump administration's view on the issue is that Mexichem and Arkema are foreign firms while the companies backing the rule are domestic. Trump has often talked about boosting American companies through trade policy and other venues.

And broadly, industry groups, including chemical firms and many appliance manufacturers, support a “manageable” transition away from high-GWP HFCs, though they have sometimes criticized EPA's SNAP rules.

Industry sources have also noted that the pending litigation causes compliance uncertainty because some of the SNAP obligations began in January.

Trade Sanctions

Industry also largely backs an international agreement struck last year that crafts a global phasedown of HFCs under the Montreal Protocol. However, the future of that deal -- known as the Kigali Amendment -- is now uncertain.

Chemical and appliance firms, as well as environmentalists, are urging Trump to back the Kigali deal, which would likely require ratification by the Senate. They also warn that not participating in the deal carries significant risks.

The Montreal Protocol includes strict trade sanctions banning the import of chemicals from countries that are not members of the deal and do not follow its phasedown requirements. Exporting chemicals to such countries would also be prohibited.

Thus, if the United States does not join the Kigali pact and does not follow its HFC restrictions, domestic chemical producers could not export HFCs to developing countries like India that are poised to be significant customers because the Kigali amendment does not require them to begin phasing down the substances until 2028.

U.S. appliance manufacturers might also be affected because they would be limited to purchasing refrigerants from domestic suppliers -- a move that might boost prices.

The SNAP rules give the U.S. a path to meet Kigali's first phasedown step in 2019. That effectively protects against trade sanctions even if Trump administration decides not to move forward with the global deal.

But if the court overturns the SNAP rules, or if the administration ultimately weakens the regulations, the country could be in jeopardy of not meeting its first set of Kigali obligations.

'Square Peg, Round Hole'

Much of the Feb. 17 oral arguments will likely focus on whether courts should grant deference to EPA's interpretation that its SNAP authority allows it to limit HFCs.

Mexichem and Arkema charge that EPA disregarded the bounds of the SNAP program as set by air act section 612 to meet the HFC reduction goal in President Barack Obama's Climate Action Plan.

“In short, EPA has pounded the square peg of the President's Climate Action Plan into the round hole of [section] 612 and the SNAP regulations. In doing so, the Agency has produced a rarity -- an air emissions regulation where the significance of risk, amount of emissions, extent of controls, and actual effects on the atmosphere are irrelevant,” Mexichem and Arkema wrote in their March 2016 opening brief.

The firms charge EPA lacks authority to regulate HFCs under the statute “without Congress's authorization.” Congress also would have to act, they say, to grant EPA authority to craft rules to implement the Kigali deal.

They also argue that EPA's interpretation of section 612 as allowing it to continue direct

replacement of future generations of chemicals is “astonishingly expansive” and “far removed from the comparatively modest purpose of the provision -- to ensure that ozone-depleting substances are replaced with safe alternatives as they are phased out.”

But EPA and its supporters say petitioners' interpretation of the statute is too restrictive and would inhibit EPA's ability to meet the SNAP program's requirement that it update the list of acceptable chemicals to reflect those that pose the lowest overall risk based on a variety of factors, including “human health and the environment.”

“To hold otherwise, as Petitioners advocate, would disregard Congress's mandate that EPA consider risks to human health and the environment when regulating alternatives to ozone-depleting substances and would stand in tension with settled principles of administrative law regarding an agency's authority to reconsider prior decisions,” the Obama DOJ wrote in a May brief defending the rule.

Honeywell and Chemours also argue that restricting the agency's ability to continually update the list of acceptable and unacceptable chemicals “would stifle the very innovation Congress sought to promote and forever insulate even the most harmful chemicals from being removed from the list of acceptable alternatives, long after industry has invented better substitutes that pose lower risks to human health and the environment.”

In addition, the Natural Resources Defense Council in a June 10 brief argued that Mexichem and Arkema could not point to any specific statutory language that restricts EPA's power to regularly update its lists of acceptable and unacceptable chemicals.

The petitioners also oppose the rule on several other grounds, including that EPA did not adequately consider energy efficiency in its SNAP rule decisions, and that the agency neglected to properly articulate its reasoning for the GWP limits.

DOJ, however, argued that EPA determined which chemicals to delist based on the SNAP program's “comparative risk framework” -- of which environmental impacts like GWP are only one factor. “Petitioners' dissatisfaction with that analysis should not be confused with a failure to perform it,” DOJ wrote.

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